

IN THE MATTER OF	:	BEFORE THE
RELIABLE SIGN SERVICES/ VERIZON WIRELESS	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 05-009S

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DECISION AND ORDER

On May 22, 2006, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Reliable Sign Services, agent for Verizon Wireless, Petitioner, for a variance to permit a 73 square foot, 10' high freestanding, monument base sign to be erected 22 feet from the Coca Coal Drive right-of-way in an M-2 (Manufacturing: Heavy) Zoning District, filed pursuant to Section 3.513 of Subtitle 5 of Title 3 of the Howard County Code (the "Sign Code").

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Charles R. Harig testified in support of the petition. No one appeared in opposition to the petition.

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The Petitioner is the agent for Verizon Wireless, a tenant in the Cabot Commerce Center development located at 7401 Coca Cola Drive in the 1st Election District on the west side of Coca Cola Drive in Hanover (the “Property”). The Property is referenced on Tax Map 38, Block 20 as Parcel 285.

2. The Property is an irregular shaped lot consisting of about 30.88 acres. The Property has at least 880 feet of frontage on Coca Cola Drive and is about 1,223 feet deep. The Property is improved with a 139,424 square foot commercial building and associated parking that occupies most of the eastern portion of the site. The building and parking sit at the top of a hill.

3. Vicinal properties are all zoned M-2 and are unimproved, except for a one-story brick building currently under construction east of the site.

4. The Petitioner proposes to erect a freestanding monument sign that is 6’1” high by 12’ wide and stands a total of 10 feet from grade to the top of the sign. The sign will be located in the east portion of the site, just north of the gate house entranceway, about 22 feet from the Coca Cola Drive right-of-way. The sign will identify the business as “Verizon.” The required setback is 73 feet in relation to sign area and 20 feet in relation to sign height.

5. Coca Coal Drive has a steep grade on both the south and north sides of the Property. The road curves to the west as it passes the north side of the Property. Small deciduous street trees are planted about 75 feet apart along the west side of Coca Coal Drive in front of the Property.

The north face of the building on the Property identifies it as “Verizon.” In addition, a large sign at the bottom of the hill to the south of the Property identifies Verizon as one of the businesses located in the development.

6. Mr. Harig testified that the street trees obstruct the view for northbound motorists and the curve and grade of the road make it difficult for southbound motorists to see the sign at the required location. Although the street trees presently will block the view of the proposed sign, as they grow in the sign will be visible under their branches.

CONCLUSIONS OF LAW

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Fact, I conclude as follows:

1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.

If the sign were placed 73 feet from the Coca Coal Drive right-of-way, it would be located within the Verizon parking lot. The location of the parking area is therefore a unique physical conditions of the Property leading to practical difficulty and unnecessary hardship in complying strictly with the setback requirement of the Sign Code, as required by Section 3.513(b)(1).

2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.

The excessive grade and curve in Coca Cola Drive, along with the obstruction of the street trees along the road frontage, would make it difficult for both northbound and southbound motorists to see the sign if it were erected to comply with the setback. These conditions therefore represent obstructions that seriously interfere with the visibility of the

proposed sign resulting in practical difficulties and unnecessary hardship in complying strictly with the setback requirement of the Sign Code, in accordance with Section 3.513(b)(2).

3. Or, that there are historical, architectural or aesthetic characteristics which shall be considered.

There are no historical, architectural or aesthetic characteristics of the Property to be considered under section 3.513(b)(3).

4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

The sign will be well separated from vicinal properties and will be set back 22 feet from the Coca Coal Drive. All vicinal properties are also zoned M-2. Consequently, the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition as required by Section 3.513(b)(4).

5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.

The proposed sign cannot be erected any further from the Coca Cola Drive right-of-way without affecting visibility. However, I agree with the recommendation of the Department of Licensing and Permits that the size of the proposed sign is not the minimum necessary to afford relief. The Petitioner provided no evidence that a smaller sign could not be easily seen at the same location. The street trees will likely block the view of a 10-foot tall sign, even after they are grown in. What's more, the existing signs south of the Property and on the north face of the building provide ample identification for approaching motorists. The function of the proposed sign is to identify the entranceway of the parking lot; a smaller sign will adequately serve this purpose. The sign identified in the petition as Sign C, which

is 4' 1" high by 8' wide and 6'9" in height from grade to the top of the sign, is sufficient. Subject to the condition that Sign C is installed, the requested variance is therefore the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 3.513(b)(5).

6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The practical difficulties are a result of the obstructions caused by the grade, road curve and street trees. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

ORDER

Based upon the foregoing, it is this **20th day of June, 2006**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Reliable Sign Services, agent for Verizon Wireless, for a variance to permit a freestanding, monument base sign to be erected 22 feet from the Coca Coal Drive right-of-way in an M-2 (Manufacturing: Heavy) Zoning District is hereby **GRANTED;**

Provided, however, that the variance will apply only to the uses and structures as described in the petition and plan submitted, as amended herein, and not to any other activities, uses, structures, or additions on the Property; **and subject to the following condition:**

1. The sign will be no larger than 4'1" high by 8' wide (approximately 32 square feet in area) and 6'9' in height from grade to the top of the sign, and shall substantially conform to the sign identified as Sign C in the petition.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

Thomas P. Carbo

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.